

**ORAL ARGUMENT NOT YET SCHEDULED**

No. 24-1135 (consolidated with Nos. 24-1228, 24-1246, 24-1249,  
24-1250, 24-1251, 24-1252)

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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DENKA PERFORMANCE ELASTOMER LLC,  
*Petitioner,*  
v.  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, *et al.*,  
*Respondents,*  
AIR ALLIANCE HOUSTON, *et al.*,  
*Intervenors for Respondents.*

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**On Petition for Review of Final Agency Action of the  
United States Environmental Protection Agency  
89 Fed. Reg. 42,932 (May 16, 2024)**

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**UNOPPOSED MOTION FOR LEAVE TO FILE BRIEF OF THE CHAMBER  
OF COMMERCE OF THE UNITED STATES OF AMERICA AND THE  
NATIONAL ASSOCIATION OF MANUFACTURERS AS *AMICI CURIAE*  
IN SUPPORT OF INDUSTRY AND STATE PETITIONERS AND VACATUR**

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Charles H. Knauss  
HUNTON ANDREWS KURTH LLP  
2200 Pennsylvania Ave. NW  
Washington, DC 20037

Trevor S. Cox  
*Counsel of Record*  
J. Pierce Lamberson  
HUNTON ANDREWS KURTH LLP  
951 East Byrd Street, East Tower  
Richmond, VA 23219  
(804) 788-8200  
tcox@huntonak.com

DATED: January 24, 2025

*Counsel for Amici Curiae*

*Additional counsel listed on following page*

Andrew R. Varcoe  
Christopher J. Walker  
U.S. CHAMBER LITIGATION CENTER  
1615 H Street, NW  
Washington, DC 20062  
(202) 463-5337

*Counsel for the Chamber of Commerce of the United States of America*

Erica T. Klenicki  
Michael A. Tilghman II  
NAM LEGAL CENTER  
733 10th Street NW, Suite 700  
Washington, DC 20001  
(202) 637-3000

*Counsel for the National Association of Manufacturers*

## **MOTION FOR LEAVE**

Pursuant to Federal Rule of Appellate Procedure 29(a)(3), the Chamber of Commerce of the United States of America (“Chamber”) and the National Association of Manufacturers (“NAM”) (collectively, “*Amici*”) respectfully request leave to file a brief in support of the Industry and State Petitioners and vacatur of the rule of the Environmental Protection Agency (“EPA”) titled “New Source Performance Standards for the Synthetic Organic Chemical Manufacturing Industry and National Emission Standards for Hazardous Air Pollutants for the Synthetic Organic Chemical Manufacturing Industry and Group I & II Polymers and Resins Industry,” 89 Fed. Reg. 42,932 (May 16, 2024) (“Rule”).

Through counsel, *Amici* have informed counsel for Petitioners, Respondents, and Intervenor of their intent to file this motion and the accompanying brief. Respondents and Petitioners in Nos. 24-1135, 24-1228, 24-1246, 24-1249, 24-1250, and 24-1252 consent to this motion. Petitioners in No. 24-1251 and Intervenor in No. 24-1135 do not oppose this motion.

The Chamber is the world’s largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than 3 million companies and professional organizations of every size, in every sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive

Branch, and the courts. To that end, the Chamber regularly files amicus curiae briefs in cases, like this one, that raise issues of concern to the business community.

The NAM is the largest manufacturing association in the United States, representing small and large manufacturers in all 50 states and in every industrial sector. Manufacturing employs nearly 13 million men and women, contributes \$2.91 trillion to the United States economy annually, has the largest economic impact of any major sector, and accounts for over half of private sector research and development in the nation. The NAM is the voice for the manufacturing community and the leading advocate for a policy agenda that helps manufacturers compete in the global economy and create jobs across the United States.

*Amici* are well positioned to aid this Court's review of the Rule. *Amici's* members include businesses from all sectors of the economy that stand to be impacted by the Rule and by the interpretation of the Clean Air Act that the Rule advances. These include not only owners and operators of chemical manufacturing plants, but businesses at every level of the supply chain that benefit from the use of organic chemicals, polymers, and resins in various medical, pharmaceutical, biochemical, bioengineering, and agricultural applications. More broadly, *Amici* represent businesses that have a strong interest in properly construing regulatory statutes and in ensuring that administrative agencies act within their statutory authority.

For these reasons, the Court should grant leave to file the accompanying brief and direct the Clerk to accept the brief for filing.

Dated: January 24, 2025

Respectfully submitted,

/s/ Trevor S. Cox

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Trevor S. Cox  
J. Pierce Lamberson  
HUNTON ANDREWS KURTH LLP  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Richmond, VA 23219  
(804) 788-8200

Charles H. Knauss  
HUNTON ANDREWS KURTH LLP  
2200 Pennsylvania Ave. NW  
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(202) 955-15000

*Counsel for Amici Curiae*

Andrew R. Varcoe  
Christopher J. Walker  
U.S. CHAMBER LITIGATION CENTER  
1615 H Street, NW  
Washington, DC 20062  
(202) 463-5337

*Counsel for the Chamber of Commerce  
of the United States of America*

Erica T. Klenicki  
Michael A. Tilghman II  
NAM LEGAL CENTER  
733 10th Street NW, Suite 700  
Washington, DC 20001  
(202) 637-3000

*Counsel for the National Association of  
Manufacturers*

### **CERTIFICATE OF COMPLIANCE**

This motion contains 475 words, excluding the parts of the motion that Federal Rule of Appellate Procedure 32(f) and D.C. Circuit Rule 32(e)(1) exempt. The motion thus complies with Federal Rule of Appellate Procedure 27(d)(2)(A), because the word count does not exceed the 5,200 words permitted under those rules.

The motion also complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and Federal Rule of Appellate Procedure 32(a)(6)'s type style requirements (as well as Federal Rule of Appellate Procedure 27(d)(1)(E)) because the motion has been prepared in a proportionally spaced type-face using Microsoft Word in Times New Roman 14-point font.

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 24th day of January 2025, I caused a true and correct copy of the foregoing to be electronically filed with the Clerk of the Court of the United States Court of Appeals for the District of Columbia Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Trevor S. Cox

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**On Petition for Review of Final Agency Action of the  
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**THE CHAMBER OF COMMERCE OF THE UNITED STATES OF  
AMERICA AND THE NATIONAL ASSOCIATION OF MANUFACTURERS  
AS *AMICI CURIAE* CORPORATE DISCLOSURE  
AND CERTIFICATE AS TO PARTIES**

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Charles H. Knauss  
HUNTON ANDREWS KURTH LLP  
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Washington, DC 20037  
DATED: January 24, 2025

Trevor S. Cox  
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J. Pierce Lamberson  
HUNTON ANDREWS KURTH LLP  
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tcx@huntonak.com

*Counsel for Amici Curiae*

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Andrew R. Varcoe  
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Erica T. Klenicki  
Michael A. Tilghman II  
NAM LEGAL CENTER  
733 10th Street NW, Suite 700  
Washington, DC 20001  
(202) 637-3000

*Counsel for the National Association of Manufacturers*

## **CORPORATE DISCLOSURE STATEMENT**

The Chamber of Commerce of the United States of America (“Chamber”) states that it is a non-profit, tax-exempt organization incorporated in the District of Columbia. The Chamber has no parent corporation, and no publicly held company has 10% or greater ownership in the Chamber.

The National Association of Manufacturers (“NAM”) is a non-profit, tax-exempt organization incorporated in New York. The NAM has no parent corporation, and no publicly held company has 10% or greater ownership in the NAM.

## **CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES**

In accordance with D.C. Circuit Rule 28(a)(1), *amici curiae* state as follows:

### **A. Parties, Intervenor, and *Amici Curiae***

These cases involve the following parties:

#### **Petitioners:**

No. 24-1135: Denka Performance Elastomer LLC.

No. 24-1228: State of Louisiana; Louisiana Department of  
Environmental Quality.

No. 24-1246: State of Texas.

No. 24-1249: Vinyl Institute, Inc.

No. 24-1250: American Chemistry Council; Louisiana Chemical  
Association; American Fuel & Petrochemical Manufacturers.

No. 24-1251: Concerned Citizens of St. John; Rise St. James  
Louisiana; Louisiana Environmental Action Network; Texas Environmental Justice  
Advocacy Services; Air Alliance Houston; California Communities Against  
Toxics; Environmental Integrity Project; Sierra Club.

No. 24-1252: Huntsman Petrochemical LLC.

#### **Respondents:**

Respondents in Nos. 24-1135, 24-1228, 24-1246, and 24-1251 are the U.S.  
Environmental Protection Agency and Michael S. Regan, Administrator, U.S.

Environmental Protection Agency. In Nos. 24-1249, 24-1250, and 24-1252, the U.S. Environmental Protection Agency is the sole named Respondent.

**Intervenors and *Amici Curiae*:**

Air Alliance Houston, California Communities Against Toxics, Concerned Citizens of St. John, Environmental Defense Fund; Environmental Integrity Project, Louisiana Environmental Action Network, Rise St. James Louisiana, Sierra Club, and Texas Environmental Justice Advocacy Services are Intervenors for Respondent in No. 24-1135. As of this time, there are no other *amici curiae*.

**B. Rulings Under Review**

These consolidated cases involve final agency action of the United States Environmental Protection Agency titled “New Source Performance Standards for the Synthetic Organic Chemical Manufacturing Industry and National Emission Standards for Hazardous Air Pollutants for the Synthetic Organic Chemical Manufacturing Industry and Group I & II Polymers and Resins Industry,” 89 Fed. Reg. 42,932 (May 16, 2024).

**C. Related Cases**

These consolidated cases (Nos. 24-1135, 24-1228, 24-1246, 24-1249, 24-1250, 24-1251, and 24-1252) seek review of the agency action challenged here. Pursuant to the Court’s December 30, 2024 Order, ECF No. 2091937, one issue raised in No. 24-1251 has been severed, assigned a separate docket number (No. 24-

1387, *Concerned Citizens of St. John v. EPA*), and held in abeyance pending further order of the Court. *Amici curiae* are unaware of any other related cases.

Dated: January 24, 2025

Respectfully submitted,

/s/ Trevor S. Cox

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Trevor S. Cox  
J. Pierce Lamberson  
HUNTON ANDREWS KURTH LLP  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Richmond, VA 23219  
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Christopher J. Walker  
U.S. CHAMBER LITIGATION CENTER  
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Washington, DC 20062  
(202) 463-5337

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Michael A. Tilghman II  
NAM LEGAL CENTER  
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